

Message Text

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PAGE 01 STATE 061790
ORIGIN TRSE-00

INFO OCT-01 ARA-10 ISO-00 EB-08 COME-00 FRB-03 XMB-02
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TX-387

DRAFTED BY TREASURY:OS:THORST
APPROVED BY STATE:L/T:AROVINE
TREASURY:XLI:JRAEDEL
TREASURY:IT:GCHUFBAUER
ARA/ECA:STMYLES

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O 101432Z MAR 78
FM SECSTATE WASHDC
TO AMEMBASSY BRASILIA IMMEDIATE

C O N F I D E N T I A L STATE 061790

E.O. 11652: GDS

TAGS: EFIN

SUBJECT: BANCO DO BRASIL RULING

FOR CARL LOHMAN, TREASURY ATTACHE.

1. PARAGRAPH 2 GIVES THE PRELIMINARY TEXT OF A PRESS
RELEASE ANNOUNCING THE REVOCATION OF THE BANCO DO BRASIL
RULING. THE WORDING MAY BE REVISED, AND THE TIME OF ISSUE
HAS YET TO BE ESTABLISHED. YOU SHOULD NOT REPEAT NOT
COMMUNICATE THE EXISTENCE OR THE SUBSTANCE OF THIS PRESS
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RELEASE TO THE GOB UNTIL ADVISED BY TELEPHONE TO DO SO.
THE PROVISIONAL TEXT IS BEING TRANSMITTED NOW TO
FACILITATE ITS FINAL RELEASE.

2. THE TEXT OF THE PRESS RELEASE IS AS FOLLOWS:

THE TREASURY DEPARTMENT ANNOUNCED TODAY THAT THE INTERNAL
REVENUE SERVICE HAS COMPLETED A REVIEW OF REVENUE RULING
57-106 AND INTENDS TO PUBLISH IN DUE COURSE A NEW RULING

MODIFYING THAT 1957 RULING.

REVENUE RULING 57-106 HOLDS IN PART THAT THE FOREIGN TAX THERE IN QUESTION IS CREDITABLE UNDER THE PROVISIONS OF SECTION 901 OF THE INTERNAL REVENUE CODE OF 1954. IN THE

RULING IT IS STATED THAT THE FOREIGN COUNTRY GRANTED A SUBSIDY EQUAL TO 100 PERCENT OF THE TAX IN QUESTION TO A FOREIGN CORPORATION WHICH HAD AGREED TO PAY THE TAX ON BEHALF OF THE DOMESTIC TAXPAYER.

THIS FACT WAS NOT RELEVANT TO THE POINTS UNDER CONSIDERATION IN THE RULING BUT THE STATEMENT HAS BEEN CITED AS RELEVANT IN A DIFFERENT SET OF CIRCUMSTANCES, WITH RESPECT TO BRAZILIAN WITHHOLDING ON INTEREST PAID ON FOREIGN CURRENCY LOANS. BRAZIL REQUIRES BORROWERS TO WITHHOLD 25 PERCENT OF THE GROSS INTEREST, BUT PROVIDES A SUBSIDY TO THE BORROWER FOR 85 PERCENT OF THAT AMOUNT (OR 21.25 PERCENT OF THE GROSS INTEREST).

THE INTERNAL REVENUE SERVICE HAS ISSUED LETTER RULINGS TO A NUMBER OF U.S. BANKS ALLOWING A FOREIGN TAX CREDIT FOR THE FULL 25 PERCENT OF BRAZILIAN WITHHOLDING, BUT ADVISING THAT REVENUE RULING 57-106 WAS BEING CONFIDENTIAL

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RECONSIDERED AND THAT IF THAT RULING WAS REVISED OR REVOKED THE LETTER RULINGS ON THE BRAZILIAN WITHHOLDING COULD NO LONGER BE RELIED UPON.

AS A CONSEQUENCE OF THE FORTHCOMING RULING, A FOREIGN TAX CREDIT FOR THE BRAZILIAN WITHHOLDING WILL BE ALLOWED FOR 3.75 PERCENT OF THE GROSS INTEREST, THE AMOUNT NOT PROVIDED AS A SUBSIDY TO BORROWERS. THE 21.25 PERCENT OF GROSS INTEREST THAT IS GIVEN AS A SUBSIDY WILL NOT BE CONSIDERED INCOME TO THE LENDERS NOR WILL IT BE CONSIDERED A CREDITABLE TAX PAID OR ACCRUED.

APPROPRIATE SECTION 7805(B) RELIEF WILL BE ACCORDED WITH RESPECT TO LOAN COMMITMENTS ENTERED INTO WHEN IT WAS REASONABLE TO RELY ON THE CREDITABILITY OF THE FULL 25 PERCENT OF BRAZILIAN WITHHOLDING. NO SECTION 7508(B) RELIEF IS APPROPRIATE OR WILL BE GRANTED WITH RESPECT TO LOAN CONTRACTS CONCLUDED AFTER TODAY FOR TAXABLE YEARS BEGINNING ON OR AFTER JULY 1, 1978.

3. FYI: NOTE THAT THE GRANDFATHERING TERMS HAVE YET TO BE SPECIFIED. WE EXPECT TO ISSUE A SEPARATE STATEMENT SPECIFYING THOSE TERMS WITHIN THE NEXT WEEK TO TEN DAYS. THE TREASURY BELIEVES THAT IT FULLY UNDERSTANDS THE GOB

VIEWS ON GRANDFATHERING AND DOES NOT REPEAT NOT EXPECT
ANY ADDITIONAL INFORMATION OR REPRESENTATIONS FROM THE
GOB ON THIS ISSUE. BEFORE THE GRANDFATHERING TERMS ARE
PUBLICLY ANNOUNCED, THEY WILL BE COMMUNICATED TO THE GOB.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
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Current Classification: UNCLASSIFIED
Concepts: TAX LAW, PRESS RELEASES, TAXES
Control Number: n/a
Copy: SINGLE
Draft Date: 10 mar 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
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TAGS: EFIN, SOPN, BR, US, BANCO DO BRASIL
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